

REMARKS

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103 or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Claims 1-8 are canceled. Claims 9-14 are in this application.

Claims 8-14 were rejected under 35 U.S.C. 102(b) as being anticipated by Nitta et al. (5,381,275). Claims 8-14 were rejected under 35 U.S.C. 102(b) as being anticipated by Shikakura (5,594,598).

Independent claim 9 recites in part as follows:

“said predetermined size being determined on the basis of the length of time for which the variable bit-rate data can be reproduced at a maximum bit-rate without an interruption.”

It is respectfully submitted that neither the portions of Nitta relied upon by the Examiner (hereinafter, merely “Nitta”) nor the portions of Shikakura relied upon by the Examiner (hereinafter, merely “Shikakura”) appear to specifically disclose the above-identified features of claim 9.

Accordingly, claim 9 is believed to be distinguished from either Nitta or Shikakura. For similar reasons, claims 10-14 are also believed to be distinguished from either Nitta or Shikakura.

The Examiner made of record, but did not rely upon, a number of documents. The applicants appreciate the Examiner's explicit finding that these documents, whether considered alone or in combination with others, do not render the claims of the present application unpatentable.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the applicants' undersigned attorney and, in the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where in the reference or references, there is the bases for a contrary view.

Please charge any fees incurred by reason of this response to Deposit Account No. 50-0320.

Respectfully submitted,
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